

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

UNITED STATES DISTRICT COURT

for the

Central District of California

Division

FILED CLERK, U.S. DISTRICT COURT	
JUL 21 2023	
CENTRAL DISTRICT OF CALIFORNIA BY <i>DTA</i>	DEPUTY

Case No. **8:23cv01321-JFW(SSC)**
(to be filled in by the Clerk's Office)

ASHLEY CORNELIA SCHMITT

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

**ORANGE COUNTY, CALIFORNIA, A
COUNTY GOVERNMENT,**

**MICHELLE TOLOSA, IN HER OFFICIAL
CAPACITY AS A SOCIAL WORKER AND**

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

(SEE ATTACHED)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS (Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

ATTACHED ADDITIONAL DEFENDANTS

AS AN INDIVIDUAL, AND

PAULINA VELASQUEZ, IN HER OFFICIAL CAPACITY AS A SOCIAL WORKER

AND AS AN INDIVIDUAL, AND

ANDY NGUYEN, IN HIS OFFICIAL CAPACITY AS A SOCIAL WORKER

AND AS AN INDIVIDUAL, AND

FRANCINA ANDERSON, IN HER OFFICIAL CAPACITY AS A SOCIAL WORKER

AND AS AN INDIVIDUAL, AND

VICTOR MOLINA, IN HIS OFFICIAL CAPACITY AS A SOCIAL WORKER

SUPERVISOR AND AS AN INDIVIDUAL, AND

CHINA NEAL, IN HER OFFICIAL CAPACITY AS A SOCIAL WORKER

SUPERVISOR AND AS AN INDIVIDUAL, AND

ELIZABETH MOUA, IN HER OFFICIAL CAPACITY AS A SOCIAL WORKER

AND AS AN INDIVIDUAL, AND

DOES 1 THROUGH 10,

DEFENDANTS.

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name ASHLEY SCHMITT
 Address 12913 HARBOR BLVD. Q-3
GARDEN GROVE CA 92840
City State Zip Code
 County ORANGE
 Telephone Number (562) 794-3536
 E-Mail Address TIGEYS MAMA @ GMAIL.COM

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name ORANGE COUNTY, CALIFORNIA
 Job or Title (if known) COUNTY GOVERNMENT (ORANGE COUNTY CHILDREN
 Address 800 N ECKHOFF STREET AND FAMILY SERVICES AGENCY)
ORANGE CA 92868
City State Zip Code
 County ORANGE
 Telephone Number (714) 704-8000
 E-Mail Address (if known)

☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name MICHELLE TOLDSA
 Job or Title (if known) SOCIAL WORKER
 Address 800 N ECKHOFF STREET
ORANGE CA 92868
City State Zip Code
 County ORANGE
 Telephone Number (714) 704-8000
 E-Mail Address (if known)

☒ Individual capacity ☒ Official capacity

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

Defendant No. 3

Name

PAULINA VELASQUEZ

Job or Title (if known)

SOCIAL WORKER

Address

800 N ECKHOFF STREET

ORANGE

City

CA

State

92868

Zip Code

County

ORANGE

Telephone Number

(714) 704-8000

E-Mail Address (if known)

☒ Individual capacity ☒ Official capacity

Defendant No. 4

Name

ANDY NGUYEN

Job or Title (if known)

SOCIAL WORKER

Address

800 N ECKHOFF STREET

ORANGE

City

CA

State

92868

Zip Code

County

ORANGE

Telephone Number

(714) 704-8000

E-Mail Address (if known)

☒ Individual capacity ☒ Official capacity

II. Basis for Jurisdiction

(SEE ATTACHED)

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

VIOLATION OF CIVIL RIGHTS UNDER 42 U.S.C. SECTION 1983:

1. Violation of Schmitt's Procedural Due Process Rights by Defendant Orange County (SEE ATTACHED)

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

B. ATTACHED ADDITIONAL DEFENDANTS

Defendant No. 5

FRANCINA ANDERSON

SOCIAL WORKER

800 N ECKHOFF STREET

ORANGE, CA 92868

ORANGE COUNTY

(714) 704-8000

INDIVIDUAL AND OFFICIAL CAPACITY

Defendant No. 6

VICTOR MOLINA

SOCIAL WORKER SUPERVISOR

800 N ECKHOFF STREET

ORANGE, CA 92868

ORANGE COUNTY

(714) 704-8000

INDIVIDUAL AND OFFICIAL CAPACITY

Defendant No. 7

CHINA NEAL

SOCIAL WORKER SUPERVISOR

800 N ECKHOFF STREET

ORANGE, CA 92868

ORANGE COUNTY

(714) 704-8000

INDIVIDUAL AND OFFICIAL CAPACITY

B. ATTACHED ADDITIONAL DEFENDANTS (continued)

Defendant No. 8

ELIZABETH MOUA

SOCIAL WORKER

800 N ECKHOFF STREET

ORANGE, CA 92868

ORANGE COUNTY

(714) 704-8000

INDIVIDUAL AND OFFICIAL CAPACITY

II B. ATTACHED BASIS FOR JURISDICTION

2. Defendant Orange County's Unlawful Interference with Plaintiff Schmitt's Parental and Custodial Rights with Daughter Tigerlily Schmitt-Nguyen by Defendant's Wrongful Removal of Plaintiff's Child From Rightful Custody.

II D. ATTACHED BASIS FOR JURISDICTION

2. Defendant Paulina Velasquez, in her individual and official capacity as a social worker for the County of Orange (CFSA).
3. Defendant Andy Nguyen, in his individual and official capacity as a social worker for the County of Orange (CFSA).
4. Defendant Francina Anderson, in her individual and official capacity as a social worker for the County of Orange (CFSA).
5. Defendant Victor Molina, in his individual and official capacity as a social worker supervisor for the County of Orange (CFSA).
6. Defendant China Neal, in her individual and official capacity as a social worker supervisor for the County of Orange (CFSA).
7. Defendant Elizabeth Moua, in her individual and official capacity as a social worker for the County of Orange (CFSA).

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

1. Defendant Michelle Tolosa, in her individual and official capacity as a social worker for the County of Orange Children and Family Services Agency (CFSA) (SEE ATTACHED)

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

All of the events occurred in the County of Orange, California.

- B. What date and approximate time did the events giving rise to your claim(s) occur?

On or about July 2021 through the entirety of the case, lasting on or about April 2023.

- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

1. Intentional Misrepresentation of Fact (Lying and Fabrication of Evidence):

- a. Defendant Michelle Tolosa, Defendant Paulina Velasquez, Defendant Andy Nguyen, Defendant Francina Anderson, Defendant Victor Molina, Defendant China Neal, and Defendant Elizabeth Moua intentionally fabricated lies and misrepresented facts in official correspondence reports and conversations by claiming that Plaintiff didn't properly care for the health, safety, and welfare of her daughter, Tigerlily. (SEE ATTACHED)

III. ATTACHED STATEMENT OF CLAIM (C.)

1. b. Omission of ANY AND ALL relevant material evidence favoring Plaintiff's parental and custodial rights and reputation by all aforementioned Defendants.
2. Negligence -

a. Defendant Michelle Tolosa, Defendant Paulina Velasquez, Defendant Andy Nguyen, Defendant Francina Anderson, Defendant Victor Molina, Defendant China Neal, and Defendant Elizabeth Moua failed to execute their respective duties and responsibilities as reasonable, competent social workers and supervisors.

b. Defendant Andy Nguyen placed Plaintiff's daughter Tigerlily in an unsuitable/emotionally-damaging foster home, under the care of Chau Do and Mary Aznar, a lesbian married couple. As a result of said placement, Plaintiff's daughter Tigerlily was forced to play with dead animals (child abuse). Furthermore, Plaintiff's daughter witnessed sexually-suggestive pictures and images on clothing worn by foster parent Mary (Do) Aznar.

c. Defendant Andy Nguyen was repeatedly warned by Plaintiff that Tigerlily would be unsafe in the foster care of Chau Do and Mary Aznar, and knowing this, he, Nevertheless, placed and kept Plaintiff's daughter in their care. Subsequently, Plaintiff's daughter was found to be molested/innappropriately touched by both Chau Do and Mary Aznar, and thereafter was placed in her father's care.

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

As a result of Defendants' Unlawful, Improper Conduct, Plaintiff has sustained the following emotional injuries:

anxiety, emotional trauma, pain and suffering, sleep deprivation, severe mental distress caused by the loss of familial relations with her daughter, damage to reputation, shame, humiliation and loss of security, dignity and pride.

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

As a result of Defendants' Unlawful, Improper Conduct, Plaintiff, hereby, requests compensatory damages in the sum of \$ 25,000,000.00

Furthermore, as a result of Defendants' malicious, ill-will conduct toward Plaintiff, Plaintiff, hereby, requests punitive damages in the sum of \$ 15,000,000.00.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: July 21, 2023

Signature of Plaintiff

Printed Name of Plaintiff

Ashley Schmitt
ASHLEY SCHMITT

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address